THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5043 OF 2006

Dated: 14-03-2006

Between

Syed Hussain, S/o. Hyder,

Occ: Business, Narsipatnam,

Visakhapatnam District and

another.

...PETITIONERS

AND

The District Collector,

Visakhapatnam,

Visakhapatnam District

and others.

...RESPONDENTS

ORDER:

Petitioners seek a Writ of Mandamus to declare the action of the respondents in not issuing Gazette Notification and not following the procedure as contemplated under National Highways Act, 1956 and Land Acquisition Act, 1894 as illegal and arbitrary.

Learned counsel for the petitioners submits that the first petitioner is the owner of an

extent of 0.25 cents of land in Sy.No.360/1 purchased vide registered sale deed dated 14.04.1975 vide document No.1176 and the second petitioner is the owner of an extent of 196 sq. yards of land in Sy.No.359/1A/A by way of registered Gift Settlement Deed dated 22.11.2004 both situated in Narsipatnam, Visakhapatnam District. He further submits that both the petitioners constructed shopping complex in the above vacant sites and are getting rents. He further submits that the petitioners have not encroached the road margins of the road leading from Anakapalli to Tuni and the said buildings are abutting the said road.

Learned counsel further submits that though the petitioners have not encroached any road margins and have constructed the buildings in accordance with the sanction plan the respondents are threatening to demolish certain portion of the said buildings and dispossess them from the said land for the purpose of road widening.

If any private land is required for the purpose of road widening the respondents cannot dispossess the private persons without following due procedure prescribed in law and without acquiring the land by way of private negotiations or by initiating the land acquisition proceedings. If the petitioners have encroached the road margins it is open for the respondents to dispossess them and demolish the encroachments.

Having regard to the facts and circumstances of the case,
the respondents are directed not to dispossess the petitioners and not to demolish their premises without following due process of law.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

March 14, 2006

Note: Furnish C.C. of the order in two days

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